

REMARKS

This responds to the Office Action dated on December 10, 2007.

Claims 1, 17-24 and 36-46 are amended, and claims 1-24, 28 and 36-46 remain pending in this application.

The Rejection of Claims Under §103

Claims 1, 2, 5-24 and 36-46

Claims 1, 2, 5-24 and 36-46 were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,630,835 to Brownlee (herein "Brownlee"). Applicant respectfully submits that this rejection is an error, for the reasons set forth below.

Brownlee discloses a method and apparatus for suppressing far-field interference signals in an implantable device data link.¹ The described system includes an internal (implantable) device 10, with which communication will be established, and an external device 20 that will communicate with the implantable device 10. The external device includes an antenna arrangement that includes the two antennas 26, 28 referenced in the Office Action.

In contrast to such a system, Applicant's claim 1, prior to amendment, recited a system including "an implantable medical device including electronic circuit;" "a near field antenna connected to the electronic circuit;" and "a far field antenna connected to the electronic circuit." Claim 1 has now been amended by this response to be even more explicit that each of these structures is implantable. Thus, in an intended operating environment for such a system all three elements will be implanted within a patient's body. Thus, this is in stark contrast to the system disclosed by Brownlee, wherein the near and far field antennas are located in the external device (20).

¹ Brownlee, column 1, lines 8-10.

Method claim 17 was already express that the recited “plurality of wireless transmitters” and “near field receiver” were “of” any implantable medical device, and were coupled to a circuit of that device in the performing of the recited method. Further, claim 17 has now been amended to expressly recite that the recited method is one for “programming an implantable device.”

Independent claim 36 has now been amended to recite “a method of operating an implantable telemetry system,” comprising “receiving at the implantable telemetry system a first wireless signal from a near field transmission source;” and “upon receiving the first wireless signal, opening a channel in the implantable telemetry system to communicate using a wireless far field link.” The Office Action did not provide any basis for the alleged obviousness of claim 36, and the claims dependent therefrom, over Brownlee. However, Brownlee is clear that the system operates by isolating the transmit and receive functions performed by the external device through use of the two antennas 26, 28 of the external device.² In each of the by embodiments discussed in reference to figures 2-4 of Brownlee, control over the connection of the two antennas 26, 28 is performed only by the external device of Brownlee.³ Thus, Applicant's recited system of receiving a first wireless signal from a near field transmission source, and in response to that receiving, “opening a channel in the implantable telemetry system to communicate using a wireless far field link” is not disclosed or suggested by Brownlee.

Applicant's independent claim 41, even before amendment, recited the acts of “powering a near field link of an implantable medical device,” and “powering a far field receiver of the device according to a duty cycle,” as well as additional steps reciting the use of the near and far field links. Thus, even before amendment, claim 41 expressly recited the separate powering of a near field link and a far field receiver, each of an implantable medical device. Claim 41 has been amended to be even more express that the act of powering a far field receiver is one in which that receiver is of the implantable medical device. Again, Brownlee clearly does not disclose or suggest this type of operation within the implantable medical device.

² See Brownlee, column 5, lines 37-51.

³ See Brownlee, column 5, lines 52-67.

Accordingly, for the reasons set forth above, Applicant respectfully submits that each of independent claims 1, 17, 36 and 46, expressly and substantially distinguishes over the teachings of Brownlee; and that such claims, as well as each claim depending directly or indirectly from those claims, are not obvious in view of Brownlee. Accordingly, Applicant respectfully request the Examiner's reconsideration and withdrawal of the rejection of claims 1, 2, 5-24 and 36-46, and the passing of these claims to issue.

Claims 3 and 4

Claims 3 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brownlee in view of U.S. Patent No. 5,532,708 to Krenz et al. (herein "Krenz"). Claims 3 and 4 each depend directly from independent claim 1 which is believed to have been shown to be patentable over the applied reference. Accordingly, Applicant respectfully submits that claims 3 and 4 are allowable at least on the basis that they depend from an allowable independent claim. Accordingly, Applicant respectfully requests the Examiner's reconsideration and withdrawal of the rejection of claims 3 and 4, and the passing of these claims to issue.

CONCLUSION

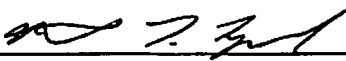
Applicant respectfully submits the claims herein have been shown to be in condition for allowance, and therefore respectfully requests the passing of these claims to issue. If there are any matters that may be resolved or clarified to telephone interview, the Examiner is respectfully requested to contact Applicant's undersigned attorney at (512) 628-9324.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments, to Deposit Account No. 19-0743.

Respectfully submitted,

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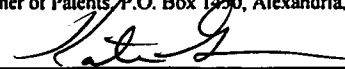
Date May 12, 2008

By 

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12 day of May 2008.

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